

AMENDED IN SENATE AUGUST 18, 2009

AMENDED IN ASSEMBLY APRIL 20, 2009

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

Assembly Concurrent Resolution

No. 56

Introduced by Assembly Member Huffman

(Principal coauthor: Senator Pavley)

(Coauthors: ~~Assembly Members Ammiano, Bass, Block, Blumenfield, Brownley, Chesbro, De Leon, Feuer, Fong, Hernandez, Hill, Jones, Ma, Monning, Nava, Portantino, Ruskin, Saldana, Skinner, Adams, Arambula, Beall, Bill Berryhill, Tom Berryhill, Blakeslee, Caballero, Carter, Cook, Coto, Davis, De La Torre, Emmerson, Eng, Evans, Fletcher, Fuentes, Fuller, Furutani, Galgiani, Garrick, Harkey, Hayashi, Huber, Krekorian, Lieu, Logue, Bonnie Lowenthal, Mendoza, Miller, Nestande, John A. Perez, V. Manuel Perez, Price, Salas, Silva, Smyth, Solorio, Audra Strickland, Swanson, Torlakson, Torrico, Tran, and Yamada~~)

(Coauthors: Senators Corbett, DeSaulnier, Hancock, Kehoe, Liu, Maldonado, Romero, Steinberg, Wiggins, and Wolk)

April 1, 2009

Assembly Concurrent Resolution No. 56—Relative to ~~Earth Week 2009~~ *tribal gaming compact ratification*.

LEGISLATIVE COUNSEL'S DIGEST

ACR 56, as amended, Huffman. ~~Earth Week 2009~~. *Tribal gaming: local support*.

This measure would ~~proclaim the week of April 20 to April 24, 2009, inclusive, as Earth Week 2009~~ call upon the Governor to refrain from negotiating a tribal-state gaming compact, with respect to specified gaming proposals on nontribal lands, until the land upon which the gaming will occur has been taken into trust for the tribe, the tribe has jurisdiction over the land, and the local jurisdiction and the local community in which the tribe's proposed gaming project would be located actually support the project.

Fiscal committee: no.

1 WHEREAS, The federal Indian Gaming Regulatory Act of 1988
2 (IGRA) authorizes federally recognized Indian tribes to conduct
3 class III gaming on Indian lands within the tribe's jurisdiction, to
4 the extent those games are permitted by state law, and pursuant
5 to a gaming compact negotiated between a tribe and the state; and
6 WHEREAS, IGRA requires the state to negotiate in good faith
7 for the conclusion of tribal-state gaming compacts with Indian
8 tribes that request negotiations when those tribes have eligible
9 Indian lands located in the state; and
10 WHEREAS, In 1998, California voters approved Proposition
11 5, a statutory measure designed to allow for the operation of slot
12 machine and house-banked card gaming by California Indian
13 tribes on Indian lands in accordance with federal law, and in 1999,
14 the California Supreme Court held that most of the provisions
15 enacted by Proposition 5 were unconstitutional; and
16 WHEREAS, In 2000, California voters approved Proposition
17 1A, amending the California Constitution to authorize the
18 Governor to negotiate and conclude compacts, subject to
19 ratification by the Legislature, for the operation of slot machines,
20 and for the conduct of lottery games and banked and percentage
21 card games by federally recognized Indian tribes on Indian lands
22 in California in accordance with federal law; and
23 WHEREAS, During the campaigns to approve Propositions 5
24 and 1A, proponents assured California voters that Indian lands
25 were mainly in remote, rural areas of the state and that approval
26 of these measures would not result in tribal casinos being located
27 in urban areas; and
28 WHEREAS, In the general election of 2004, two initiative
29 measures, Propositions 68 and 70, that would have expanded

1 gaming activities in urban areas were placed before the California
2 voters; and

3 WHEREAS, Proposition 68 was defeated with 83.8 percent of
4 the electorate voting against it and Proposition 70 was defeated
5 with 76.3 percent of the electorate voting against it; and

6 WHEREAS, There is increasing public concern over the location,
7 expansion, and impact of tribal gaming on nontribal lands in
8 California; and

9 WHEREAS, There are over 100 federally recognized Indian
10 tribes in California and many of those tribes have Indian lands
11 within the tribe's jurisdiction that are eligible for class III gaming;
12 and

13 WHEREAS, Subdivision (d) of Section 12012.25 of the
14 Government Code designates the Governor as the state official
15 with authority to negotiate and execute tribal gaming compacts
16 on behalf of the state; and

17 WHEREAS, Subdivisions (c) and (e) of Section 12012.25 of the
18 Government Code provide that tribal-state gaming compacts
19 negotiated by the Governor are subject to ratification by the
20 Legislature; and

21 WHEREAS, An increasing number of Indian tribes are seeking
22 to put new land into trust for purposes of conducting class III
23 gaming activities pursuant to the provisions of IGRA, often in
24 urban areas; and

25 WHEREAS, In May 2005, Governor Arnold Schwarzenegger
26 issued a proclamation that he would (1) oppose proposals for the
27 federal acquisition of lands within any urbanized area where the
28 lands sought to be acquired in trust are to be used to conduct or
29 facilitate gaming activities; (2) decline to engage in negotiations
30 for tribal-state gaming compacts where the Indian tribe does not
31 have Indian lands eligible for class III gaming; (3) consider
32 requests for gubernatorial concurrence to allow a tribe to conduct
33 class III gaming on newly acquired land only when (A) the land
34 that is sought for class III gaming is not within any urbanized area,
35 (B) the local jurisdiction in which the tribe's proposed gaming
36 project is located supports the project, (C) the tribe and the local
37 jurisdiction demonstrate that the affected local community supports
38 the project, such as by a local advisory vote, and (D) the project
39 substantially serves a clear, independent public policy, separate
40 and apart from any increased economic benefit or financial

1 *contribution to the state, community, or the Indian tribe that may*
2 *arise from gaming; now, therefore, be it*

3 **RESOLVED BY THE ASSEMBLY OF THE STATE OF**
4 **CALIFORNIA, THE SENATE THEREOF CONCURRING, That,**
5 *with respect to Indian gaming proposals to conduct class III*
6 *gaming, the Legislature calls upon the Governor to refrain from*
7 *negotiating a tribal-state gaming compact until the land on which*
8 *such gaming will occur has been taken into trust for the tribe, the*
9 *tribe has jurisdiction over the land, and the local jurisdiction and*
10 *the local community in which the tribe's proposed gaming project*
11 *would be located actually support the project; and be it further*

12 **RESOLVED, That the presence or absence of local support be**
13 *demonstrated through both (1) an advisory vote in the county or*
14 *counties in which the tribe's Indian lands are located, either*
15 *approving or disapproving a proposed gaming facility; and (2)*
16 *one or more intergovernmental agreements that are enforceable*
17 *in state court, that include provisions to mitigate the impacts of*
18 *the proposed gaming and related activities, executed by the Indian*
19 *tribe and the following: (A) the incorporated city or city and county*
20 *in which the Indian lands are located, or, if the land is not located*
21 *within an incorporated city or city and county, the county or*
22 *counties in which the land is located; and (B) each county that is*
23 *contiguous to the county in which the land is located and that is*
24 *likely to be substantially impacted by the proposed gaming and*
25 *related activities, as reasonably determined by the board of*
26 *supervisors of the county and set forth in a measure specifying the*
27 *nature of anticipated impacts, which impacts shall be no more*
28 *than 75 miles from the proposed gaming facility, and the estimated*
29 *costs of mitigation; and be it further*

30 **RESOLVED, That in the absence of local support as described**
31 *herein, the Legislature will not ratify a compact that allows Indian*
32 *gaming on non-Indian lands or on Indian lands not under the*
33 *jurisdiction of the tribe; and be it further*

34 **RESOLVED, That the Chief Clerk of the Assembly transmit**
35 *copies of this resolution to the author for appropriate distribution.*

36 ~~**WHEREAS, Thirty-nine years ago, millions of Americans of**~~
37 ~~*all ages, walks of life, and political affiliations joined together on*~~
38 ~~*April 22, 1970, in a demonstration of concern and support for the*~~
39 ~~*environment; and*~~

1 WHEREAS, ~~The spirit of the first Earth Day continues to~~
2 ~~increase public environmental awareness inspiring millions of~~
3 ~~Californians to make individual decisions that reduce~~
4 ~~environmental impacts; and~~

5 WHEREAS, ~~The California environment, including its rocky~~
6 ~~coasts, sandy beaches, redwood forests, deserts, and towering~~
7 ~~mountains, is among the most unique and beautiful in the world;~~
8 ~~and~~

9 WHEREAS, ~~The Legislature has helped safeguard the state's~~
10 ~~scenic beauty and natural resources, and the quality of its water,~~
11 ~~air, and land, through the enactment of various environmental~~
12 ~~laws; and~~

13 WHEREAS, ~~The work done by state government has protected~~
14 ~~public health and improved environmental preservation programs,~~
15 ~~policies, and activities in a manner that is designed to promote~~
16 ~~equality and afford fair treatment, full access, and full protection~~
17 ~~to all Californians; and~~

18 WHEREAS, ~~The protection of California's natural resources~~
19 ~~helps stimulate our economy, especially industries related to~~
20 ~~tourism, fishing, and new technologies, as well as enhance our~~
21 ~~quality of life; and~~

22 WHEREAS, ~~Activities to celebrate April 20 to April 24, 2009,~~
23 ~~inclusive, commemorating the 39th anniversary of the first Earth~~
24 ~~Day, will focus public attention on and encourage personal and~~
25 ~~community participation in the environment through recycling,~~
26 ~~conserving energy and water, encouraging use of renewable~~
27 ~~resources, and promoting other environmentally responsible~~
28 ~~personal actions; and~~

29 WHEREAS, ~~Earth Week 2009 will provide an impetus for~~
30 ~~additional protection of the environment and our public health,~~
31 ~~and inspire local, state, national, and international efforts required~~
32 ~~over the next decade in order to remedy the environmental~~
33 ~~problems that we face; now, therefore, be it~~

34 *Resolved by the Assembly of the State of California, the Senate*
35 *thereof concurring,* ~~That April 20 to 24, 2009, inclusive, is hereby~~
36 ~~declared to be "Earth Week 2009"; and be it further~~

37 *Resolved,* ~~That the Legislature reaffirms its commitment to the~~
38 ~~fundamental principles that underlie the state's environmental~~
39 ~~laws, including the protection of human health from environmental~~
40 ~~hazards; the continuance of programs to safeguard air and water~~

1 quality; the recycling and reuse of materials; the effective cleanup
2 of pollution in the state's land, air, and water resources; the
3 preservation of natural ecosystems; and the maintenance of the
4 fundamental right of the public to fully participate in public
5 decisions regarding the environment; and be it further

6 ~~Resolved, That California recognizes the importance of the~~
7 ~~environment and encourages residents to include in their daily~~
8 ~~lives those activities that promote the goals of Earth Week 2009;~~
9 ~~and be it further~~

10 ~~Resolved, That the Chief Clerk of the Assembly transmit copies~~
11 ~~of this resolution to the Governor, the Secretary of the Natural~~
12 ~~Resources Agency, and the Secretary of the Environmental~~
13 ~~Protection Agency, and to the Environmental Caucus for~~
14 ~~appropriate distribution.~~

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16
17 CORRECTIONS: _____

18 Text—Pages 5 and 6.
19 _____